

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

IHN.080.WUS

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on _____

Signature _____

Typed or printed name _____

Application Number

10/583,789

Filed

June 21, 2006

First Named Inventor

Jyrinki

Art Unit

2175

Examiner

Zahr, A.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Erin Nichols Matkaili/

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

 Signature
Erin Nichols Matkaili

Typed or printed name

☒ attorney or agent of record.
Registration number 57,125

952-854-2700

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

September 24, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☒ *Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant:	Jyrinki	Examiner:	Zahr, A.
Serial No.:	10/583,789	Group Art Unit:	2175
Filed:	June 21, 2006	Docket No.:	IHN.080.WUS
Confirmation No.:	6884	Customer No.:	76385
Title:	METHOD FOR SHARING CALENDAR CONTENT IN COMMUNICATIONS SYSTEM, COMMUNICATIONS SYSTEM AND TERMINAL		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this paper is being electronically transmitted by EFS-WEB to the United States Patent and Trademark Office on September 24, 2010.

By: /Erin Nichols Matkaiti/
Erin Nichols Matkaiti

**APPELLANT'S STATEMENT IN SUPPORT OF PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This statement is presented by Appellant in compliance with the USPTO OG Notice of 12 July 2005 on New Pre-Appeal Brief Conference Pilot Program. Appellant is requesting a pre-appeal brief conference on the belief that the rejection of record is clearly not proper and is without basis. Appellant's request is based upon a clear legal or factual deficiency in the rejection, rather than an interpretation of the claims or the prior art teachings. As such, Appellant believes this request for pre-appeal brief review is appropriate.

The sole § 102(b) rejection is based on the teachings of U.S. Publication No. 2002/0063732 by Mansikkaniemi *et al.* (hereinafter "Mansikkaniemi"). The Advisory action dated August 2, 2010, indicated that the § 112, second paragraph, has been withdrawn.

While Appellant has multiple issues for appeal, the primary purpose for submitting this particular request for review concerns omissions of essential elements required for a *prima facie* anticipation rejection. Although each of the independent claims is rejected in the final Office

Action (dated May 26, 2010) in view of Mansikkaniemi, Mansikkaniemi has not been shown to teach or suggest each of the claimed limitations. To establish a *prima facie* § 102(b) rejection of at least the independent claims, these limitations must be present in Mansikkaniemi as the Examiner alleges.

The example limitations at issue for purposes of this request for review relate to detecting a text pattern in the one or more calendar notes and associating the calendar notes with one or more calendar profiles in a terminal on the basis of the detected text patterns. To establish a *prima facie* § 102(b) rejection of at least the independent claims, these limitations must be present in Mansikkaniemi, as the Examiner alleges.

Mansikkaniemi does not mention the use of a text pattern, as claimed.

The primarily relied-upon paragraph [0048] of Mansikkaniemi does not mention detecting a text pattern or associating calendar notes with calendar profiles on the basis of detected text patterns. To illustrate this, the cited paragraph [0048] is reproduced below in its entirety.

[0048] Each new event is also designated to either be listed on the family calendar or just on the individual's calendar. Thus, any member of the family can look at and add to the family calendar and also look at and add to their private calendar, but cannot look at and add to another's calendar.

As may be seen, Mansikkaniemi does not provide details of how the asserted family/individual calendar designation of a new event is effected. Without a presentation of correspondence to each of the claimed limitations, the § 102 rejection is improper. Appellant accordingly requests that the rejection be reversed.

Mansikkaniemi does not inherently teach the use of a text pattern, as claimed.

The assertions of inherency regarding detecting a text pattern in one or more calendar notes by Mansikkaniemi's designation of a family/individual calendar are unsupported and incorrect. MPEP § 2112 states that "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the

reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).” The Examiner asserts that the designation of a family or individual calendar in Mansikkaniemi would involve an identifier. However, there is no teaching or suggestion that such designation would use a text pattern. Rather, the designation could be made by checking a box or radio button or through selection of a color that designates a family or individual calendar. Thus, the designation of which calendar to list a new event does not inherently include detecting a text pattern and associating a calendar note with a profile based on the detected text pattern. As Mansikkaniemi makes no mention of the designation involving the detection of a text pattern in a calendar note, the assertion that Mansikkaniemi would correspond to the claimed detection, and use thereof, is unsupported and incorrect. Thus, the requisite evidence to support the assertions of inherency has not been presented, rendering the assertions insufficient to provide correspondence to the claimed limitations. Without a presentation of correspondence to each of the claimed limitations, the rejection is improper, and Appellant requests that the rejection be reversed.

Mansikkaniemi has not been shown to correspond to several dependent claims.

With particular respect to the rejection of dependent claim 18, the claim requires that generating calendar content to be shared includes modifying the calendar notes associated with the shared calendar content. Notably, the claimed generation is performed by the terminal, not a user. Thus, the assertion that a user may create and edit events does not provide correspondence to the claimed modification of calendar notes by the terminal. Without a presentation of correspondence to each of the claimed limitations, the rejection is improper, and Appellant requests that the rejection be reversed.

With particular respect to the rejection of dependent claim 19, the claim requires that the calendar profile comprises a work profile, and modifying the content comprises removing non-work-related personal information from the content. The assertion that Mansikkaniemi’s family calendar would correspond to the claimed work profile does not provide any correspondence to the claimed removal of personal information from calendar content generated for the work

profile. Without a presentation of correspondence to each of the claimed limitations, the rejection is improper, and Appellant requests that the rejection be reversed.

With particular respect to the rejection of dependent claim 20, the claim requires that modifying calendar notes comprises obscuring the calendar notes associated with shared content while retaining indicators of the times of the events associated with the obscured calendar notes. The assertion that any member of the family can look at the family calendar fails to provide correspondence to the claimed obstruction of calendar notes associated with shared content. Without a presentation of correspondence to each of the claimed limitations, the rejection is improper, and Appellant requests that the rejection be reversed.

With particular respect to the rejection of dependent claim 21, the claim requires that modifying the calendar notes comprises providing a modified note to describe user availability in the context of both the calendar profile and on the basis of times of day associated with the calendar entries. Again, the claimed modification is performed by the terminal, not a user. Thus, the assertion that a user may create and edit events does not provide correspondence to the claimed modification of calendar notes by the terminal. Without a presentation of correspondence to each of the claimed limitations, the rejection is improper, and Appellant requests that the rejection be reversed.

It is respectfully submitted that there is an omission of an essential element needed for a *prima facie* presentation of anticipation. Mansikkaniemi at least fails to teach the claimed detection of a text pattern in a calendar note and the claimed use thereof. Appellant believes these claim limitations are improperly being overlooked, and consequently there is an omission of an essential element(s) required for a *prima facie* rejection.

It is Appellant's position that the Examiner's reliance on Mansikkaniemi is inappropriate, as Mansikkaniemi fails to address at least detecting a text pattern in a calendar note, as claimed.

Appellant believes that this statement, when viewed together with the prosecution history, sets forth clear grounds for a finding that the rejection based upon Mansikkaniemi is improper and without basis.

The undersigned is of record and with authority to prosecute the appeal on behalf of the Assignee.

Respectfully submitted,

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